

(4) In the case of a structure constructed before 1978, if the Owner (or Borrower, if applicable) is presented with test results that indicate that a child under the age of 6 years occupies the structure and has an elevated blood lead level (EBL), the Owner (or Borrower, if applicable) must cause the unit to be tested for lead-based paint on chewable surfaces. Testing must be conducted by a State or local health or housing agency, by an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analysis (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, covering or removal of the paint surface in accordance with paragraph (a)(5) of this section is required and treatment shall be completed within the time limits in paragraph (b)(3) of this section.

(5) Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

(i) A defective paint surface shall be treated if the total area of defective paint on a component is:

(A) More than 10 square feet on an exterior wall;

(B) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls; or

(C) More than 10 percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.

(ii) Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

(iii) Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydroblasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totalling no more than twenty square feet on exterior surfaces.

(iv) During exterior treatment, soil and playground equipment must be protected from contamination.

(v) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

(vi) Waste and debris must be disposed of in accordance with all applicable Federal, State and local laws.

(6) In lieu of the procedures set forth in the preceding clause, the Owner (or Borrower, if applicable) may, at its discretion, abate all interior and exterior chewable surfaces in accordance with the methods set out paragraph (a)(5) of this section.

(7) The Owner (or Borrower, if applicable) must take appropriate action to protect tenants from hazards associated with abatement procedures.

(8) The Owner (or Borrower, if applicable) must keep a copy of each inspection report for at least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the Owner must keep the test results, and, if applicable, the certification of treatment indefinitely. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish that certain chewable surfaces were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated at any subsequent time.

Subpart D—Project Management

§ 891.400 Responsibilities of owner.

(a) *Marketing.* (1) The Owner must commence and continue diligent marketing activities not later than 90 days before the anticipated date of availability of the first unit or occupancy of the group home. Market activities shall include the provision of notices of the availability of housing under the program to operators of temporary housing for the homeless in the same housing market.

(2) Marketing must be done in accordance with a HUD-approved affirmative fair housing marketing plan and all Federal, State or local fair housing and equal opportunity requirements. The purpose of the plan and requirements is to achieve a condition in which eligible households of similar income levels in the same housing market area have a like range of housing choices available to them regardless of

discriminatory considerations such as their race, color, creed, religion, familial status, disability, sex or national origin.

(3) At the time of PRAC execution, the Owner must submit to HUD a list of leased and unleased assisted units (or in the case of a group home, leased and unleased residential spaces) with a justification for the unleased units or residential spaces, in order to qualify for vacancy payments for the unleased units or residential spaces.

(b) *Management and maintenance.* The Owner is responsible for all management functions. These functions include selection and admission of tenants, required reexaminations of incomes for households occupying assisted units or residential spaces, collection of tenant payments, termination of tenancy and eviction, and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All functions must be performed in compliance with equal opportunity requirements.

(c) *Contracting for services.* (1) With HUD approval, the Owner may contract with a private or public entity for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the Owner of responsibility for these services and duties. All such contracts are subject to the restrictions governing prohibited contractual relationships described in § 891.130. (These prohibitions do not extend to management contracts entered into by the Owner with the Sponsor or its nonprofit affiliate.)

(2) Consistent with the objectives of Executive Order No. 11625 (36 FR 19967, 3 CFR, 1971-1975 Comp., p. 616; as amended by Executive Order No. 12007 (42 FR 42839, 3 CFR, 1977 Comp., p. 139)); Executive Order No. 12432 (48 FR 32551, 3 CFR, 1983 Comp., p. 198); and Executive Order No. 12138 (44 FR 29637, 3 CFR, 1979 Comp., p. 393; as amended by Executive Order No. 12608 (52 FR 34617, 3 CFR, 1987 Comp., p. 245)), the Owner will promote awareness and participation of minority and women's business enterprises in contracting and procurement activities.

(d) *Submission of financial and operating statements.* The Owner must submit to HUD:

(1) Within 60 days after the end of each fiscal year of project operations, financial statements for the project audited by an independent public accountant and in the form required by HUD; and

(2) Other statements regarding project operation, financial conditions and occupancy as HUD may require to administer the PRAC and to monitor project operations.

(e) *Use of project funds.* The Owner shall maintain a separate interest bearing project fund account in a depository or depositories which are members of the Federal Deposit Insurance Corporation or National Credit Union Share Insurance Fund and shall deposit all tenant payments, charges, income and revenues arising from project operation or ownership to this account. All project funds are to be deposited in Federally insured accounts. All balances shall be fully insured at all times, to the maximum extent possible. Project funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to the replacement reserve under § 891.405, in accordance with HUD-approved budget. Any remaining project funds in the project funds account (including earned interest) following the expiration of the fiscal year shall be deposited in a Federally-insured residual receipts account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD. If there are funds remaining in the residual receipts account when the mortgage is satisfied, such funds shall be returned to HUD.

(f) *Reports.* The Owner shall submit such reports as HUD may prescribe to demonstrate compliance with applicable civil rights and equal opportunity requirements. See § 891.410(a).

(Approved by the Office of Management and Budget under control number 2502-0470)

§ 891.405 Replacement reserve.

(a) *Establishment of reserve.* The Owner shall establish and maintain a replacement reserve to aid in funding